

SENATE BILL 400

By Haile

AN ACT to amend Tennessee Code Annotated, Title 37,
Chapter 1, relative to magistrates.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 37-1-107, is amended by deleting subsections (c), (d), and (e) and substituting:

(c) Upon conclusion of the hearing, the magistrate shall file an order containing written findings of fact, conclusions of law, and recommendations. The magistrate shall also inform each party of the right to request a review by the juvenile court judge, the time limits within which a request for a review must be perfected, and the manner in which to perfect the request for a review.

(d)

(1)

(A) A party may, within ten (10) days after entry of the magistrate's order, file with the court a written request for a review of the record by the juvenile court judge. The request must include written exceptions to the magistrate's findings, conclusions, or recommendations, and specify the findings to which the party objects, the grounds for the objection, and the party's proposed findings, conclusions, or recommendations.

(B) The juvenile court judge shall not grant a review when the party requesting the review did not participate in the hearing before the magistrate in good faith.

(C) A review by the juvenile court judge is not a hearing and is limited to those matters for which exceptions have been filed.

(D) The juvenile court judge shall afford the magistrate's findings, conclusions, and recommendations a presumption of correctness. The judge shall modify the magistrate's findings only when, after review, the judge makes a written finding that an abuse of discretion exists in any or all of the magistrate's findings, conclusions, or recommendations.

(E) The judge shall issue written findings, conclusions, or recommendations, or may schedule the matter for a new hearing of any issues the judge deems necessary, with notice to all parties.

(2) Notwithstanding subdivision (d)(1), no later than ten (10) days after the entry of the magistrate's order, the judge may, on the judge's own initiative, order a new hearing of any matter heard before a magistrate.

(3) If a child pleads guilty or no contest before a magistrate in a delinquency or unruly proceeding, then the child waives the right to request a review by the juvenile court judge, and the judge shall not order an adjudicatory hearing or review in such proceeding. If the plea includes an agreement as to disposition, then the child also waives the right to request a review before the judge regarding disposition, and the judge shall not order a hearing or review in such proceeding.

(4) This section does not alter the court's jurisdiction to hear post-dispositional issues, including, but not limited to, judicial reviews or collateral challenges.

(5) If a delinquency or unruly petition is dismissed by the magistrate after a hearing on the merits, then there is no right to a hearing or review.

(6) Unless the judge orders otherwise, the order of the magistrate is the order of the court pending any review or hearing.

(e) If no review before the judge is requested, or a review is expressly waived by all parties within the specified time period, then the magistrate's order becomes the order of the court. A party may appeal the order pursuant to § 37-1-159.

SECTION 2. Tennessee Code Annotated, Section 37-1-107, is amended by deleting subsection (g) and substituting:

(g) All parties to the hearing before the magistrate are parties to any review conducted by the judge or any hearing that may be set by the judge following the review.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.